



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
REGULATORY DIVISION
P.O. BOX 6898, CEPOA-RD
JBER, ALASKA 99506-0898

REPLY TO
ATTENTION OF:

JUN 21 2012

Regulatory Division
POA-2006-753

President Frank Standifer III
Native Village of Tyonek
Post Office Box 82009
Tyonek, Alaska 99682

Dear President Standifer:

We are writing to express recent concerns regarding the Native Village of Tyonek's (NVT) role as a Cooperating Agency (CA) on the Chuitna Coal Supplemental Environmental Impact Statement (SEIS).

On May 25, 2012, we received an email from your advisor, Ms. Heather Kendall-Miller that included an attached letter addressed to the National Park Service (NPS) inviting them to be a Cooperating Agency (CA) on the Chuitna Coal Supplemental Environmental Impact Statement (SEIS). As the lead federal agency for the SEIS, it is the United States Army Corps of Engineer's (USACE) role and responsibility to officially invite other parties to become a CA.

We are concerned that your advisor did not discuss your interest in inviting the NPS as a CA to us, and we were unaware of this desire. Please note that the appropriate process for inviting additional CA parties is to discuss this with the lead agency, and if it is determined appropriate to invite them, then the USACE, as lead federal agency would prepare the official letter requesting their participation.

In addition to being the lead federal agency for the SEIS, the USACE leads and has overall responsibility for ensuring compliance with the National Historic Preservation Act (NHPA) in coordination with the NEPA process.

Additionally, Ms. Kendall-Miller sent letters to the Advisory Council for Historic Properties and the Alaska State Historic Preservation Office expressing concerns regarding Section 106 Consultation for the Chuitna SEIS. We acknowledge NVT's concerns regarding potential impacts of the proposed coal mine project on the Ch'u'itnu Archaeological District. As courtesy to our role as the lead federal agency, we would appreciate coordination with us prior to sending these letters, since we may be able to address some of these concerns directly.

Currently in the Chuitna SEIS process, we are determining alternatives and gathering baseline data. This is a process that includes making sure requirements of CAs that have special expertise or mandates are identified. When NVT goes outside the CA process they are not utilizing their role as a CA. For issues directly related to the SEIS, we require the NVT to work

within the framework of the Memorandum of Understanding (MOU) between the USACE and Cooperating Agencies. This includes ensuring that data, such as cultural resources, has been adequately gathered and analyzed. Your request for additional surveys and further evaluation of NPS Register of Historic Places criterion should have been a direct request to USACE, since we are the lead federal agency on the SEIS and for Section 106 Consultation.

Also, we are concerned about NVT's recent comment on the Alternatives and Reasonably Foreseeable Future Actions section (Chapter 2), of the preliminary draft SEIS related to the recommendation that the no action alternative be selected and that USACE deny the permit to develop the proposed mine. Although NVT may not be in support of the proposed action, as CA your recommendation to request the permit be denied prior to completing an alternatives analysis and resource impact analysis, is premature in this early stage of the SEIS process. There will be multiple future opportunities in the SEIS process for NVT to express concerns over alternatives selection and/or other issues of importance.

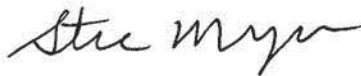
Lastly, we requested an official letter from you at a meeting held on March 16, 2012, that updates NVT representatives on the Chuitna Coal CA team. To date, we have not received the requested information. Please provide us with this updated contact list as soon as possible.

The USACE recognizes your sovereignty as a Federally Recognized Tribe, very much appreciates our government to government relationship, and acknowledges your concerns regarding potential impacts from the proposed Chuitna coal mine to your Tribal rights and resources. We also recognize your important role as a CA team member for the SEIS. Although many issues are inter-related in these two separate roles, it is our duty as the lead federal agency, to ensure that all cooperating agencies are complying with the obligations and duties assumed under the MOU and NEPA regulations. Thus as a signatory to the MOU between the USACE and Cooperative Agencies for the Chuitna Coal SEIS, we require that all CAs work within the framework of the MOU, without regard to whether they are a federal, state, or local agency or Tribal government.

If NVT finds the obligations and constraints associated with their CA role, too restrictive, you have the option of withdrawing from this process as a CA. Should NVT wish to continue as a CA, you must abide by the MOU. Where there may be uncertainty, please contact us directly to discuss.

For additional information, please contact Ms. Marcia Heer of my staff at (907) 753-5759; toll free from within Alaska at (800) 478-2712, by e-mail at Marcia.l.heer@usace.army.mil, or by mail at the letterhead address.

Sincerely,



Steve Meyers
Acting Chief, Regulatory Division